

Q1: In your opinion, has the new system for overseeing press regulation in the UK been a success or failure so far? Please explain your reasons.

The system has not been allowed to succeed because the Secretary of State has refused to implement a fundamental plank of the framework which was agreed by Parliament: section 40 of the Crime and Courts Act. It was always intended - as the Prime Minister himself told Parliament - that an integral element of the Charter framework was an incentives package which would reward those publishers which joined a genuinely independent and effective self-regulator. By refusing to commence the cost provisions element of the Crime and Courts Act - which would also provide access to justice for ordinary victims of press abuse - the Secretary State has effectively pulled the rug from under the whole system. It is therefore not yet possible to say that the system as implemented by Parliament has been a complete failure. In the historical context spanning several decades, in which attempts have been made to mitigate the worst excesses of press abuse in Britain, Parliament finally approved a framework which had a genuine chance of success. Unless and until that framework is FULLY implemented, it can only ever be deemed a failure - but a failure which in my view has been deliberately and recklessly engineered by the current Secretary of State. I sincerely hope, therefore, that the PRP will conclude i. that the system will be bound to fail while it is not fully implemented; and ii. that this situation cannot be allowed to continue indefinitely at the government's whim. That is categorically not what Parliament intended, and is wholly contrary to the public interest. I would ask, therefore, that the PRP recommends i. that the government implement s40 as a matter of urgency so that we can see whether or not the system works; ii. that, if the government does not do so within the next 3 months, the system should be deemed to have failed and Parliament must consider the alternatives that Lord Justice Leveson laid out as his personal opinion in his report. This would involve a greater statutory element involving Ofcom to ensure that a genuinely independent and effective system is achieved.

Q2: For publishers, joining an approved regulator is voluntary. For regulators, applying for Charter recognition is voluntary. In your opinion, what factors or issues will affect regulators' and publishers' decisions when they consider these choices.

This is implicit in my answer above. Publishers will be influenced by i. the potential for adverse court costs if they are outside a recognised regulator and face litigation for privacy or defamation by those with a reasonable case, even if they subsequently lose; and ii. the protection afforded them for difficult investigative journalism which tackles powerful or wealthy individuals, who are likely to threaten very expensive litigation through the courts. That was precisely the rationale for s40, and there is no reason why - given an opportunity to succeed - it would not prove to be an effective incentive for large and small publishers to join a recognised regulator. Precisely the same arguments, by definition, apply to self-regulators. A regulator which declines either to apply for recognition or to meet the necessary criteria will not be providing protection for the public nor for watchdog journalism. There is little that can be done about the latter. However, the public can at least be protected from unaffordable court costs by the comfort of knowing that they will not be rendered penniless if they wish to take a publisher with very deep pockets to court. Regulators will be influenced by the commercial self-interest of their constituent members, and are therefore much more likely to apply for recognition if there are commercial as well as public interest advantages.